

ENTERED

March 28, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MARCUS JONES,

Plaintiff,

VS.

KELLY STRONG, *et al*,

Defendants.

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CIVIL ACTION NO. 4:18-CV-953

MEMORANDUM AND ORDER

Marcus Jones, an inmate incarcerated at the Wynne Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, has filed a prisoner civil rights complaint. Jones has not paid the filing fee. This action will be dismissed pursuant to the provisions of 28 U.S.C. § 1915(g).

Barring a show of imminent danger, under the Prison Litigation Reform Act of 1995, a prisoner may not file an action without prepayment of the filing fee if he has, on three or more prior occasions, filed a prisoner action in federal district court or an appeal in a federal court of appeals which was dismissed as frivolous or malicious. 28 U.S.C. § 1915(g); *Adepegba v. Hammons*, 103 F.3d 383, 385 (5th Cir. 1996). Jones accumulated at least three such dismissals before filing the pending complaint, and is no longer allowed to proceed *in forma pauperis* pursuant to the provisions of section 1915(g). See *Jones v. Livingston*, No. 4:06-cv-2842 (S.D. Tex. Nov. 1, 2006); *Jones v. Livingston*, No. 6:12-cv-232 (W.D. Tex. Sept. 27, 2012); *Jones v. Livingston*, No. 6:13-cv-39 (W.D. Tex. Feb. 12, 2013). Jones' allegations allege past abuse, but do not plead any facts showing that he is in any immediate danger which would warrant waiver of the fee requirement. See *Choyce v. Dominguez*, 160 F.3d 1068, 1071 (5th Cir. 1998); *Banos v. O'Guin*, 144 F.3d 883, 884 (5th Cir. 1998).

In light of the pleadings and his litigation history, Jones has failed to show that he is eligible to proceed as a pauper. Consequently, this action should be dismissed pursuant to 28 U.S.C. § 1915(g).

The Court ORDERS that the Prisoner Civil Rights Complaint (Docket Entry No. 1), filed by TDCJ-CID Inmate Terry Matthew Davis, TDCJ-CID No. 01948635 is DISMISSED. 28 U.S.C. § 1915(g); 28 U.S.C. § 1915(e).

The Clerk is directed to provide a copy of this Memorandum Opinion and Order to the parties and to the TDCJ - Office of the General Counsel, P.O. Box 13084, Austin, Texas 78711, Fax Number (512) 936-2159, and to the three strikes coordinator for this district, Three_Strikes@txs.uscourts.gov.

It is so ORDERED.

SIGNED on this 28th day of March, 2018.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt
United States District Judge